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Workmen's Compensation Cases

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Where an application for discharge in bankruptcy, made in proper time, is contested and left pending—no interested party having brought it up for final disposition—a subsequent application for discharge may be refused on the Court's own motion as an attempt to overreach the due and orderly administration of justice.—Freshman vs. Atkins, Sup. Ct. Rep. 46-41.

WORKMEN'S COMPENSATION CASES

The finding of the Industrial Commission on conflicting evidence is final.—Globe Indemnity Co. vs. Ind. Com., 241 Pac. 405. (Cal. Oct. 1925).

One engaged to haul coal with own truck at a fixed price per ton, although allowed to haul it himself and to come and go as he pleased, and who could be discharged by the employer, was an employee within the meaning of the Compensation Act. The power of control, not the fact, governs. As to whether claimant was an employee is a question of law, and the Court is not bound by the Commission's conclusions.—Ind. Com. vs. Bonfils, 241 Pac. 735. (Colo. Nov. 1925).

Where the foreman of an employer directs employees under him to meet at a certain place to ride to work (a distance of six miles) on his employer's truck, which was known to employer, employees are in the course of employment while riding to work thereon.—Saba vs. Pioneer Cont. Co., 131 Atl. 394. (Conn. Dec. 1925).

It is necessary before compensation may be allowed for a hernia that the claimant definitely prove, among other things, that there was an injury which resulted in such hernia. The fact of injury can not be said to exist until there is proof of it. It can not be presumed to let in the proof. The proof must come first.—Bolton vs. Columbia Cas. Co., 130 S. E. 535. (Ga. Nov. 1925).

Where death results after exertion in shoeing a mule, from angina pectoris, a prior diseased condition of the heart, such heart failure was not a traumatic accident so as to permit compensation.—Wallins Co. vs. Williams, 277 S. W. 235. (Ky. Nov. 1925).

One who agrees with a contractor to haul garbage as required by latter's contract with city, and who furnishes teams and men needed, and could discharge them, is an independent contractor and not an employee.—Hanisko vs. Fitzpatrick, 206 N. E. 322. (Mich. Dec. 1925).

Where a town superintendent, with approval of town board, hired team from owner, and one of the owner's men to drive the team, pay of the man being made direct, and man being subject to direction of super-

intendent, the laborer became the employee of the town.—Kittle vs. Kinderhook, 212 N. Y. Supp. 410. (N. Y. Nov. 1925).

Rule that "loss" of 80 per cent of vision shall constitute total loss of eye does not apply where claimant only had 50 per cent vision and had this reduced to 20 per cent by an accident. The loss must be 80 per cent to make the rule apply.—Przekop vs. Ramapo Corp., 212 N. Y. Supp. 426. (N. Y. Nov. 1925).

Where an injury results from a fall caused by an attack of epilepsy such injury is not compensable under Workmen's Compensation Law—Marion Foundry Co. vs. Redd, 241 Pac. 175. (Okla. Nov. 1925) .

Claimant must prove that disability results from accident and not from natural causes, and testimony of physician that heat strokes might have superinduced an apoplectic stroke does not meet the requirement to entitle claimant to compensation.—Gausman vs. Pearson Co., 131 Atl. 247. (Penn. Nov. 1925).

Workman employed by two parties who is injured while on way from one place of employment to the other is not entitled to compensation as for injury in course of employment.—Boatright vs. Georgia Cas. Co., 277 S. W. 802. (Tex. Nov. 1925).

THE RULE-MAKING POWER

Three distinct propositions appear to underlie the English judicature acts passed in 1873 and later: First, making rules of judicial procedure is a task for judges rather than a hurried legislative committee. Second: Use will reveal in new pleadings or forms of procedure defects which should have a readier cure than direct legislation will afford. Third: However fully the rules of statutory procedure may be in touch with the current needs of the day, the system will fossilize unless the courts themselves are authorized or empowered to adapt their procedure readily to new conditions. That is to say, no code can be perfect and therefore there should be perpetual provision for its amendment on suggestions from the judges who are applying it, and who are in the best of all situations to observe its defects.

The growing interest in the system in this country quite naturally suggests an inquiry whether it would be suited to American conditions. In this connection must be noted particularly the greater stability of the judicial office in England. We have reached the stage, however, where it will scarcely be necessary to theorize upon the adaptability of the system to this country. It appears quite certain now that the present Congress will grant to the supreme court of the United States the power to make rules governing the practice in cases at law in the federal courts. And this affords the only ready means of assuring uniform practice in such cases throughout the nation. Success of the system in these courts, therefore, seems reasonably certain.